

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

JOSE MARTINEZ,

Petitioner,

- against -

UNITED STATES OF AMERICA,

Respondent.

---

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/15/2018

18-cv-8277 (JGK)

MEMORANDUM OPINION  
AND ORDER

JOHN G. KOELTL, District Judge:

The petitioner filed a letter requesting that the Court appoint counsel to aid him with his petition for a writ of habeas corpus. However, from the papers provided, the Court cannot determine whether the necessary showing for appointment of counsel has been met. The Court of Appeals for the Second Circuit has articulated factors that should guide the Court's discretion to appoint counsel to represent an indigent civil litigant under 28 U.S.C. § 1915. See Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986); Jackson v. Moscicki, No. 99cv2427, 2000 WL 511642, at \*4 (S.D.N.Y. Apr. 27, 2000). For the Court to order the appointment of counsel, the petitioner must, as a threshold matter, demonstrate that his claim has substance or a likelihood of success on the merits. See Hodge, 802 F.2d at 60-61. Only then can the Court consider the other factors appropriate to determination of whether counsel should be appointed: "[petitioner's] ability to obtain representation


independently, and his ability to handle the case without assistance in the light of the required factual investigation, the complexity of the legal issues, and the need for expertly conducted cross-examination to test veracity." Cooper v. A. Sargenti Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989). The petitioner has not yet made such a showing.

The petitioner may seek assistance from the New York Legal Aid Group Legal Clinic for Pro Se Litigants, which is located at 40 Centre Street, Room LL22, New York, New York 10007, and is open on weekdays from 10:00 am until 4:00 pm. The New York Legal Aid Group can be reached by calling (212) 659-6190. The New York Legal Aid Group can, as appropriate, recommend other counsel for the petitioner.

For the reasons explained above, the petitioner's application for the Court to appoint counsel is **denied without prejudice**. The Clerk is directed to close the pending motion at Docket Number 6.

SO ORDERED.

Dated: New York, New York  
October 12, 2018

  
\_\_\_\_\_  
John G. Koeltl  
United States District Judge